

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6917**

**BILL NUMBER:** HB 1394

**NOTE PREPARED:** Mar 4, 2004

**BILL AMENDED:** Feb 25, 2004

**SUBJECT:** Driving While Intoxicated and Causing Death.

**FIRST AUTHOR:** Rep. Bosma

**FIRST SPONSOR:** Sen. M. Young

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** To honor the memory of Representative Roland Stine, this bill has the following provisions:

- A. It provides that a person at least 21 years of age who causes the death of another person while operating a motor vehicle with an alcohol concentration of at least 0.15 gram of alcohol per: (1) 100 milliliters of the person's blood or 210 liters of the person's breath; or with a Schedule I or II controlled substance in the blood; commits a Class B felony;
- B. It provides that a person who causes the death of another person while having a BAC of between 0.08% and 0.15% , and who knowingly operated the motor vehicle with a driver's license that was suspended or revoked based on a previous conviction for OWI commits a Class B felony;
- C. It provides that a person at least 21 years of age who operates while intoxicated a motor vehicle in which at least one passenger is less than 18 commits a Class D felony; and
- D. It requires lifetime license suspension of a person with two convictions for OWI causing death.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** *A and B:* Under current law, an operator causing the death of another when operating a motor vehicle (1) with a blood- or breath-alcohol concentration of at least 0.08 grams, (2) with a schedule I or II controlled substance in the person's body, or (3) while intoxicated is a Class C felony.

This bill would change the blood- or breath-alcohol concentration to between 0.08 grams and 0.15 grams for the Class C felony and increase the penalty to a Class B felony for causing a death when driving while intoxicated for either of the following reasons:

- being at least 21 years of age and operating a motor vehicle with a blood- or breath-alcohol

concentration of 0.15 or more or with a schedule I or II controlled substance in the person's blood;  
or

- operating a vehicle while having a BAC of between 0.08% and 0.15% with a suspended or revoked driver's license for a previous OWI violation.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class C felony is punishable by a prison term ranging between two and eight years, depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from 6 to 20 years.

Since offenders with a higher blood- or breath-alcohol concentration would have a later date of release, enhancing the offense from a Class C felony to a Class B felony could increase the number of beds needed if no other change occurs. Between FY 1997 and 2001, an average of 29 offenders were committed to DOC facilities for operating while intoxicated and causing death, but there are no data available to indicate the blood- or breath-alcohol concentration of these offenders.

*Provision C:* Under current law, a driver over the age of 21 who operates a vehicle while intoxicated with a minor in the vehicle commits a Class A misdemeanor. This bill would make this offense a Class D felony.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances.

*Background:* The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for a Class D felony is about 10 months, a Class C felony is approximately 1.9 years, and the average length of stay for a Class B felony is approximately 3.7 years.

*Provision D:* This bill increases the suspension length of OWI-related offenses as shown below.

Offense	Length of Time a License May Be Suspended	
	<u>Current Law</u>	<u>Proposed</u>
Two violations under habitual traffic violator statute causing death	10 years	Lifetime

**Explanation of State Revenues:** *A and B:* No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for either Class C or B felonies.

*C:* More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120. If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work

zone fee of either \$0.50 or \$25.50 is assessed.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** No additional revenues would be expected since the court fees for misdemeanors, Class C, and Class B felonies are \$120.

**State Agencies Affected:** Department of Correction; Bureau of Motor Vehicles.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.

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